

**REMARKS/ARGUMENTS**

Favorable reconsideration of this application in light of the following discussion is respectfully requested.

Claims 4-16 are pending in the above-identified application, Claims 4-16 having been presently added to recite features similar to the original claims, and Claims 1-3 having been canceled without prejudice or disclaimer by way of the present amendment. No new matter is added.

In the outstanding Office Action, Claims 1-3 were rejected under 35 U.S.C. §103(a) as being unpatentable over Ishikawa et al. (U.S. Pat. Pub. No. 2002/0114289, hereinafter “Ishikawa”) in view of Zhang (U.S. Pat. No. 6,778,812) and further in view of Hamalainen et al. (U.S. Pat. Pub. No. 2003/0043774, hereinafter “Hamalainen”).

Claims 1-3 are canceled without prejudice or disclaimer, making the rejection of these claims moot.

To the extent the cited references are relevant to new Claims 4-16, the following remarks are provided for the examiner’s consideration.

New Claims 4-16 are added and find support in the specification and in the original claims. Claims 4-5 recite features similar to original Claims 1-2, respectively.

The Office Action acknowledges on pages 3-4 that Ishikawa does not disclose “code selection trial means for each cell, provided in association with each of the plurality of cells, for trying to select a spread code for the associated cell under a predetermined condition,” “determination means for determining whether to try to select a spread code again under a different condition from the condition that has been used in the selection trial, when the selection trial of the spread code by each code selection trial means under the predetermined condition has been terminated without any successful selection of the spread code,” and “control means for controlling the code selection trial means and the determination means so

as to cause the code selection trial means to try to select the spread code sequentially for the plurality of cells under the predetermined condition, cause the determination means to determine whether to try to select the spread code again under the different condition from the condition that has been used in the selection, after the termination of the selection trial by each code selection trial means, and cause the code selection trial means to try to select the spread code sequentially for the plurality of cells under the different condition when it has been determined that the selection should be tried again,” and relies on Zhang and Hamalainen to overcome this deficiency.

New Claim 4 recites a radio control device for controlling a plurality of base stations, comprising:

a plurality of channelization code selection means for sequentially selecting a channelization code for a mobile station from a *first set of channelization codes* or a *second set of channelization codes, one of said channelization code selection means associated with a respective one of a plurality of frequency bands*;

determination means for determining whether to select a channelization code from the *second set of channelization codes if selection from the first set of channelization codes was not successful*;

and  
control means for controlling whether to select a channelization code from the *second set of channelization codes if selection from the first set of channelization codes was not successful*.

Fig. 1 of Zhang is a flow diagram of a slot selection procedure for the uplink and downlink. Zhang describes calculating a load for one target cell at a time, wherein the code assignment is done sequentially, on an individual basis. Zhang describes at most one scrambling code for each, single target cell. However, Zhang does not teach or suggest “one of said channelization code selection means associated with a respective one of a plurality of frequency bands,” as recited in Claim 4. Furthermore, Zhang describes selecting from one set of codes. However, Zhang does not teach or suggest selecting a channelization code “from the second set of channelization codes if selection from the first set of channelization codes was not successful,” as recited in Claim 4. Therefore, Zhang does not teach or suggest

“a plurality of channelization code selection means,” “determination means,” and “control means,” as recited in Claim 4.

Hamalainen describes a CDMA system that transmits from a base station to a plurality of mobile stations or from mobile station to base station on a shared frequency band, each mobile station's data being spread by a different spreading code chosen from a set of orthogonal codes. In Hamalainen, each receiver in base station or mobile station correlates for its intended data by despreading the signal using its particular one of the orthogonal codes. However, Hamalainen does not teach or suggest “a plurality of channelization code selection means,” “determination means,” and “control means,” as recited in Claim 4.

Therefore, Ishikawa, Zhang and Hamalainen do not teach or suggest, either separately or combined, a radio control device for controlling a plurality of base stations, as recited in Claim 4.

Therefore, Ishikawa, Zhang and Hamalainen, either separately or combined, cannot provide the function provided by the device recited in Claim 4, because it is not possible to assign a plurality of different scrambling codes to the same cell in order to expand the channelization code resource in the above cited references. Further, Ishikawa, Zhang and Hamalainen, either separately or combined, cannot provide the function provided by Claim 4, because these references do not make it possible to use as many channelization codes subsidiary to the same scrambling code as possible in order to prevent an increase of interference components due to the correlation of the channelization codes and in an attempt to secure the system capacity, since channelization codes subsidiary to different scrambling codes have a correlation with each other regardless of time shift.

Accordingly, it is respectfully submitted that Claim 4 (and Claims 5-9 dependent therefrom) patentably defines over the applied art.

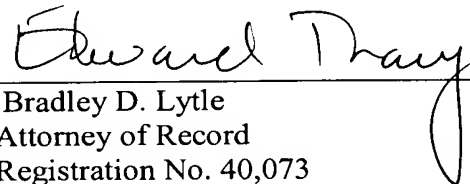
Independent method Claim 10 finds support in the original claims and recites similar features as argued above for independent Claim 4. For substantially the same reasons as discussed with regard to Claim 4, it is respectfully submitted that independent Claim 10 also patentably defines over Zhang and Hamalainen.

New independent Claim 12 recites features similar to Claim 4, however, without using language which invokes 35 U.S.C. § 112, sixth paragraph. Accordingly, Claim 11 (and Claims 12-16 dependent therefrom) are submitted to patentably define over the applied references for the same reasons that Claim 4 does.

Consequently, in view of the present amendment and in light of the above discussions, the outstanding grounds for rejection are believed to have been overcome. The application as amended herewith is believed to be in condition for formal allowance. An early and favorable action to that effect is respectfully requested.

Respectfully submitted,

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